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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,835	12/27/2001	Robert E. Best JR.	BS01-315	9850

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EXAMINER

VAN HANDEL, MICHAEL P

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/026,835	Applicant(s) BEST ET AL.	
	Examiner Michael Van Handel	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims **1-3, 7-11, 15, 16, 18-24, 27, 32-35, 39-44** are rejected under 35 U.S.C. 102(e) as being anticipated by Frengut et al. (US 2002/0046099).

Referring to claims **1-3, 7-9, 15, 18-20, 22-24, 27, 32-34, and 39-44**, Frengut et al. discloses a system/method for remote presence recognition information delivery, the system/method comprising:

- a processor (host server 58)(Fig. 1A);
- a memory coupled to the processor, the memory storing user profile data and a plurality of instructions configured to be executed by the processor, the plurality of instructions including presence detector instructions (user profile database 50); and
- an information delivery system and a remote presence detector coupled to the information delivery system, the remote presence detector configured to send a presence indicator to the information delivery system (the host receives a user action indicating that the user wants his/her custom page displayed), the information delivery system configured to take an information delivery action at least in part on

the presence indicator (the host generates a custom web page for the user according to the user's profile)(p. 2, paragraph 26).

Further referring to claim **33**, Frengut et al. discloses requesting information from a predetermined network address (request to the host to generate the user's custom page).

Note: The USPTO considers the applicant's "selected from the group consisting of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Referring to claim **10**, Frengut et al. discloses the system of claim 9, further comprising user profile data, the user profile data coupled to the information delivery system, the user profile data including one or more user identifiers (p. 2, paragraph 25).

Referring to claims **11**, **16**, and **28**, Frengut et al. discloses the systems/methods of claims 10, 15, and 27, respectively, wherein the user profile data includes one or more information delivery action records, each information delivery action record of at least a subset of the one or more information delivery action records including a user identifier field to store a user identifier and an information delivery action instruction field to store an information delivery action instruction (the examiner notes that formatting and layout instructions are stored in association with the user profile)(p. 2, paragraph 26).

Referring to claim **21**, Frengut et al. discloses the system of claim 15, wherein the information delivery system is selected from the group consisting of a computer, an Internet appliance, a web television system, a home entertainment system, an audio system, an audio-video system, a television system, and a stereo system (p. 3, paragraph 27).

Note: The USPTO considers the applicant's "selected from the group consisting of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

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Referring to claim 33, Frengut et al. discloses the method of claim 32, wherein a first information delivery action is selected from the group consisting of refreshing a web page, deactivating a screen saver, requesting information from a predetermined network address, requesting e-mail messages, executing an application, powering on the information delivery system, adjusting the volume of an information delivery system, tuning the information delivery system to select a channel, exiting a power-saving mode, exiting a hibernation mode, and sending a user status indicator to a server based at

Referring to claim 35, Frengut et al. discloses the method of claim 34, wherein the first information delivery action includes determining whether the first user is authorized to receive information from the information delivery system (the user must enter his/her username and password)(p. 2, paragraph 26).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 5, 12-14, 25, 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frengut et al. (US 2002/0046099) in view of Gutta et al. (US 2002/0144259).

Referring to claims 4, 5, and 25, Frengut et al. discloses the system/method of claims 1 and 23. Frengut et al. does not disclose that the remote presence detector is selected from the

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group consisting of an ultrasonic presence detector, an infrared presence detector, a radio frequency presence detector, and a visible light spectrum detector. Gutta et al. discloses a media player controller with a camera for capturing image or video information (visible light spectrum detector) to identify one or more predefined user activities or events (p. 1, paragraph 13). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Frengut et al. to use a camera for identifying one or more predefined user activities or events, such as that taught by Gutta et al. in order to adjust an electronic device in response to a user activity (Gutta et al. p. 1, paragraph 4).

Note: The USPTO considers the applicant's "selected from the group consisting of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Referring to claims **6** and **26**, the combination of Frengut et al. and Gutta et al. teaches the system/method of claims 5 and 25, respectively. Gutta et al. does not specifically disclose that the camera include a charge coupled device; however, the examiner takes Official Notice that it is well known within the prior art to use a charge coupled device in a video camera. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the camera of Gutta et al. to include a charge coupled device, such as that taught by the prior art in order to reduce the cost of a video camera.

Referring to claims **12-14** and **29-31**, the combination of Frengut et al. and Gutta et al. teaches the system/method of claims 1 and 23, wherein the remote presence detector is configured to determine that a user is in the vicinity of the information delivery system while the user is not in physical contact with each of the remote presence detector and the information delivery system when the user is not speaking (the user event monitoring process processes video

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information to determine if the user is out of the room or away from the vicinity of the media player)(Gutta et al. p. 2, paragraphs 23, 24).

5. Claims 17, 37, 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frengut et al. (US 2002/0046099) in view of Gutta et al. (US 2002/0194586).

Referring to claim 17, Frengut et al. discloses the system of claim 16. Frengut et al. does not disclose that each information delivery action record of at least one subset of the one or more information delivery action records includes a time field to store at least one of a time value and a time range value. Gutta et al. discloses setting time of day viewing preferences in a user profile. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the user profiles of Frengut et al. to include time of day viewing preferences, such as that taught by Gutta et al. in order to better target consumers (Frengut et al. p. 1, paragraph 7).

Referring to claim 37, Frengut et al. discloses the method of claim 34. Frengut et al. does not disclose receiving a second identity indicator from the identity detector and selecting a second information delivery action record based at least in part on the second identity indicator. Gutta et al. discloses automatically detecting which users are within a viewing area of a system and automatically creating a composite user profile based on the profiles of each of the plurality of users in the viewing area (p. 2, paragraph 20). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Frengut et al. to include creating a composite user profile, such as that taught by Gutta et al. in order to better target consumers (Frengut et al. p. 1, paragraph 7).

Referring to claim **38**, the combination of Frengut et al. and Gutta et al. teaches the method of claim 37, determining which of the first information delivery action and the second information delivery action has priority over the other (Gutta et al. p. 3, paragraphs 29, 32).

6. Claim **36** is rejected under 35 U.S.C. 103(a) as being unpatentable over Frengut et al. in view of Stas et al.

Referring to claim **36**, Frengut et al. discloses the method of claim 34. Frengut et al. does not disclose a first information delivery action, which determines whether a first user has exceeded an information delivery access allocation. Stas et al. discloses a system in which a total time limit on the number of viewing hours per day, week, or month can be set (col. 8, l. 18-27). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the profiles of Frengut et al. to include the option of setting a total time limit on the number of viewing hours, such as that taught by Stas et al. in order to allow a parent comprehensive and user-friendly control for permitted viewing times for a predetermined future time period (col. 1, l. 65-67 & col. 2, l. 1-2).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Anderson discloses a system and method for controlling the operation of a television using a cable-broadcasting network, wherein the presence of a viewer in front of the television is sensed.

Agnihotri et al. discloses a method and apparatus for automatically selecting an alternate item based on user behavior.

Turner et al. discloses a system for monitoring and control of home entertainment electronic devices, wherein a motion detector detects entry or exit of viewers from the viewing location to monitor viewing behavior during a program.

Milovanovic et al. discloses a method of non-participatory user identification including sensor technology to collect data related to identifying characteristics of a user.

Schaffer et al. discloses a method and apparatus for selective updating of a user profile.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571.272.5968. The examiner can normally be reached on Monday-Friday, 8:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571.272.7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Note to Applicant

Art Units 2611, 2614 and 2617 have changed to 2623. Please make all future correspondence indicate the new designation 2623.

Michael Van Handel
Examiner
Art Unit 2623

MVH

A handwritten signature in black ink, appearing to read 'Vivek Srivastava', with a long horizontal stroke extending to the right.

**VIVEK SRIVASTAVA
PRIMARY EXAMINER**